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634 such public property as forests, and controls the civil police force. The administration of justice is divided between the Magistrate, the High Court, and the Garrison Commander. The position of the latter is anomalous since his power is derived from the application of Martial Law to the crimes of banditry and high treason. This is a temporary measure for the pacification of the country, theoretically terminable when order has been completely restored, but likely to last in practice for many years yet. The reason is not so much that the country is disturbed, for banditry has been stamped out in western Yunnan, but that this power derived from martial law is in fact a legalisation of the usurped power of the military authorities originating in the years of turmoil which followed the revolution.

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Martial Law applies to banditry, which is defined as robbery under arms, with or without murder; and high treason, which means in practice armed opposition to the government, conspiring against the government, or—up till 1937—assisting or belonging to the Chinese Communist Party. This last offence is only of academic interest in the Ta Li region, which was never affected by the Communist movement, and since the agreement between the Communist rebels and the Central Government upon the outbreak of war with Japan, it is no longer a crime to be a Communist. Criminal offences not included in the scope of Martial Law, such as murder without intent to rob, robbery without arms, seduction of an unmarried girl, forgery and embezzlement are tried by the Magistrate in his court. Sentence of death has to be confirmed by the Governor of the Province and is then carried out by the military authorities.

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The Chinese reformed civil code is in force in Yunnan, but in out of the way areas such as Ta Li, where the provisions of the new code are usually very little known either to the public or to the officials, the actual practice of the

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courts does not always conform to the enlightened ideas of the legislators. It may well be that an older spirit of compromise on the one hand, and of severity towards socially condemned crimes on the other, still pervades the law as it is applied from day to day. This is illustrated by the kind of sentence imposed for murders of different types. The murder of a near relative, father, mother, brother or sister, a crime abhorred by the Chinese, is punished with death. But the murder of one who is not related to the criminal, even though the crime may have very little palliating or extenuating circumstances, is often only punished by a sentence of five or six years' imprisonment. The prisons of Yunnan are for the most part well below the standard which the government desires to see enforced, and a sentence of some years in prison is therefore not so light as it may seem.

Civil disputes and lawsuits not involving criminal offences come under the jurisdiction of the Branch High Court situated at Ta Li. This type of jurisdiction is of course part of the reforms instituted by the Republic, and the law applied is the new reformed civil code. The Branch High Court has jurisdiction over a much wider area than the *Hsien* of Ta Li itself, for it covers all civil cases of importance brought in the *Hsien* between Pao Shan in the west, Li Chiang in the north, Meng Hua southwards, and Ch'u Hsiung to the east. These places, the nearest to have Branch High Courts themselves, are each about a hundred miles from Ta Li. A civil dispute arising in Erh Yuan or Chien Ch'uan has thus to be brought before the Ta Li Branch High Court, if the parties cannot compose their differences with the aid of arbitrators. The Min Chia, like the Chinese, are not at all a litigious people, always preferring to settle their disputes by arbitration if possible, and only resorting to the courts in the last instance. The cost of litigation in the civil courts, though not high by European standards, is a further deterrent. The ad-

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vocate's fee is one dollar silver a day, but it is usual to employ two or three advocates, and cases may last several days, or be adjourned. In the latter case litigants from distant towns have to remain in Ta Li till the case comes on again, which involves further expense if the litigant has no relatives in the city. For these reasons resort to the civil courts is still regarded as the luxury, or the extravagance, of the wealthy, and does not appeal to the peasants as the obvious expedient for settling disputes.

In fact, the whole system of criminal and civil jurisprudence rests lightly upon the surface of Min Chia life, a sanction generally ignored, but useful in emergency, rarely touching the life of the ordinary individual. In spite of the reforms of modern times the old passive theory of government still operates in practice in such places as Ta Li. The duties of the government in former times were three; to collect taxes, to maintain order, and—a long way after the other two—to carry out such public works as were absolutely necessary. This theory, though no longer admitted, is still very much the practice; the idea that the government has duties of a positive kind towards the people gains way only slowly, and the corresponding realisation of a duty of the citizen to co-operate with the government makes even slower progress. Government is the business of officials, war the business of soldiers, commerce concerns merchants, and agriculture is all a farmer need think about; these were the old axioms, and in practice they still hold fast. The people neither expect nor desire the government to busy itself with their concerns; if a market is held in some out of the way spot in the countryside, hundreds of people with large quantities of merchandise and money assemble, but they do not expect or require the protection or presence of the police. A dispute over the water rights in rice lands, a matter vital to the villagers, is taken, not to the courts, but

124 judgment. In any case, he had had no particularly bad experiences during all the years of his contact with the Fantzu, although this happens very often to Chinese because they find it hard to suppress a certain conceit toward peoples of other cultures.

888 My interpreter described the Mewu-Fantzu as generally sincere,
181 courteous and hospitable. They do not get angry very easily; they
577 are faithful in friendship and are very willing to help each other, but being a Chinese, my interpreter was very scornful of their lack of piety toward their parents. It can happen that an adult son refuses to take his parents into his tent, which is why one sometimes sees old people begging at the temples or burial places. Even wealthy people sometimes treat their parents badly. The Fantzu do not often lie, nor do they incline to boasting; on the contrary, they try to belittle their property, and they put little value on "face." Even wealthy people wear dirty clothes, and sometimes even beg. They do not forget insults. In business the Fantzu are less reliable than the Chinese. They often do not keep their promises, and sometimes they forget to pay.

683 The most common crimes are: theft, plunder, the infliction of
954 bodily injuries, and - in the opinion of the Fantzu themselves - black magic.

● 671 Common law, not written down, is the law of the Fantzu. The
692a 'ou-mu,[1] to whom all the more serious legal cases are presented, decides according to his judgment, usually with the approval of the heads of the ts'aowa groups.

685 According to my interpreter, the Fantzu do not have a tendency to theft, at any rate they do not rob each other. /80/ If they accept a stranger in their midst, (1) they do not steal from him or rob

1. as in the case of the author who was recommended to the Mewu Lamasery by the Labrang Lamasery.

him, especially not when he is a guest in a tent or house.

[123] Inconsistent though it seemed, my interpreter was always very
685 careful about guarding my belongings which were, as far as possible, stored in the tent in such a way that they could not be easily got at from the outside. An American missionary assured me that this precaution was justified, for he had lived a great deal among the Fantzu and had often been robbed. Nevertheless, my interpreter's insistence that the Fantzu do not tend to steal is only an apparent contradiction. Wherever primitive ideas of justice prevail, stealing from strangers is probably judged on a different moral basis than